Applicant: Patrice Flaherty
Application No: 10/630,402
Filing Date: 07/30/2003
Attorney Docket No: 1066

REMARKS

Claims 1-32 are pending herein.

Claims 12-23 are withdrawn.

Claims 1-11 and 24-32 are rejected.

Claims 1, 7, 24 and 32 are currently amended.

Claim rejections under 35 U.S.C. 102

Claims 1-11 and 24-32 were rejected under 35 U.S.C. 102(b) as being anticipated by Strittmatter (U.S. Pat. No.5,396,899).

It is respectfully submitted that Strittmatter fails to anticipate claims 1-11 and 24-32 under 35 U.S.C. 102(b), as will be hereinafter described.

Strittmatter fails to anticipate claims 1-6 and 32

It is respectfully submitted that Strittmatter fails to disclose a device comprising "a main tubing segment...an indicator unit and a syringe port disposed in fluid communication with said main tubing segment *in branched relationship to said main tubing segment and each other*...a clamp operably engaging said main tubing segment and *adapted to selectively block and unblock said main tubing segment*...", as set forth in amended claim 1 and defined by claims 2-6 and 32 as dependent from amended claim 1.

On page 2 of the Office action, it was stated, "...Strittmatter discloses a multi-channel body-fluid handling device, comprising...a clamp (20) operably engaging said main tubing segment for selectively blocking fluid...".

However, in the Office action, the Examiner identified element (11) as the main tubing segment. As shown in Fig. 2 of Strittmatter, the valve (20) is provided in element (21), which is a separate branched element with respect to the main tubing segment (11).

On page 2 of the Office action, it was further stated, "...Strittmatter discloses a multi-channel body-fluid handling device, comprising...a main tubing segment (11)...a syringe port (24) disposed in fluid communication with said main tubing segment...".

However, as set forth in col. 3, lines 29-50 of Strittmatter, the element (24) in the Strittmatter patent is not a syringe port but a hub seat which mates with a hub (23) from which extends a stylet (16). The stylet (16) normally extends through the junction member (12) and into the spinal puncture needle (11) to seal the spinal puncture needle (11) when the device is not in use. During use, the stylet (16) is withdrawn from the needle (11) to facilitate the flow of spinal fluid through the needle (11), junction member (12) and flexible tube (21), into a sample container (30), respectively. As shown in Fig. 4, the stylet (16) is solid in order to form a "substantially continuous surface" with the needle (11). This substantially

continuous surface facilitates penetration and withdrawal of the spinal needle withou: plugging of the needle during penetration (col. 4, lines 63-66). Furthermore, upon withdrawal of the stylet (16) from the needle (11), the stylet is also withdrawn from a penetrable seal (15) which prevents the flow of spinal fluid from the stylet port (14) (col. 3, lines 23-28). If element (24) were a syringe port, it would be designed to facilitate the flow of fluid from the stylet port (14).

Therefore, it is respectfully submitted that Strittmatter fails to anticipate claims 1-6 and 32 under 35 U.S.C. 102(b). Reconsideration and allowance of claims 1-6 and 32 is therefore respectfully solicited.

Strittmatter fails to anticipate claims 7-11

It is respectfully submitted that Strittmatter fails to disclose a device comprising "a main tubing segment...an indicator unit and a syringe port disposed in fluid communication with said main tubing segment in branched relationship to each other...a clamp operably engaging said main tubing segment...and at least one air-permeable and liquid-impermeable membrane provided in said indicator unit *at a distal end of said indicator unit...*", as set forth in amended claim 7, and therefore, defined by claims 8-11 as dependent therefrom.

The New Webster's Dictionary of the English Language defines "distal" as "Applied to the end of a bone, limb, or organ in plants and animals farthest removed

from the point of attachment; situated at the extremity; most distant from the center".

As shown in Figs. 6 and 7 of Strittmatter, the membrane (34) is provided in a proximal end, rather than a distal end, of the indicator unit (30).

Furthermore, as was set forth herein above, the element (24) in the Strittmatter patent is not a syringe port but a hub seat which mates with a hub (23) from which extends a stylet (16) (col. 3, lines 29-50 of Strittmatter).

Therefore, it is respectfully submitted that Strittmatter fails to anticipate claims 7-11 under 35 U.S.C. 102(b). Reconsideration and allowance of claims 7-11 is therefore respectfully solicited.

Strittmatter fails to anticipate claims 24-31

It is respectfully submitted that Strittmatter fails to disclose a device comprising "a main tubing segment...an indicator unit and a port disposed in fluid communication with said main tubing segment *in branched relationship to said main tubing segment and each other*...a clamp operably engaging said main tubing segment and *adapted to selectively block and unblock said main tubing segment*", as set forth in amended claim 24, and therefore, defined by claims 25-31 as dependent therefrom.

As was set forth herein above, the valve (20, Fig. 2) of the Strittmatter device is provided in element (21), which is a separate branched element with respect to the main tubing segment (11).

It is further respectfully submitted that Strittmatter fails to disclose a device comprising "a main tubing segment...an indicator unit and a port disposed in fluid communication with said main tubing segment...at least one air-permeable membrane provided in said indicator unit in fluid communication with said blood volumeter. *said blood volumeter disposed between said main tubing segment and said at least one air-permeable membrane*", as set forth in amended claim 24, and therefore, defined by claims 25-31 as dependent therefrom.

In contrast, as shown in Figs. 6 and 7 of Strittmatter, the membrane (34) of the Strittmatter device is provided at a proximal end, rather than a distal end, of the indicator unit (30). Furthermore, the blood volumeter (30) is located distal to the membrane (34), rather than between the main tubing segment (11) and the membrane (34).

Furthermore, as was set forth herein above, the element (24) in the Strittmatter patent is not a syringe port but a hub seat which mates with a hub (23) from which extends a stylet (16) (col. 3, lines 29-50 of Strittmatter).

Therefore, it is respectfully submitted that Strittmatter fails to anticipate claims 24-31 under 35 U.S.C. 102(b). Reconsideration and allowance of claims 24-31 is therefore respectfully solicited.

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Conclusion

Every effort has been made to amend applicant's claims in order to define the invention in the scope to which it is entitled. Accordingly, reconsideration and allowance of claims 1-11 and 24-32 is respectfully solicited.

Respectfully submitted,

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